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January 15, 2021

VIA E-FILING

Honorable Ronnie Abrams, U.S.D.J.
United States District Court
for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: **Linnea Michaels, et al. v. Fellowships at Auschwitz for the Study
of Professional Ethics, et al.; Civil Action No. 1:20-cv-05414-RA**

Dear Judge Abrams:

This office represents the Plaintiffs, Linnea Michaels, Mary-Kathryn Zoni and Rev. Susan J. McCone, in the above-referenced matter. We are in receipt of the Court's Order issued by Your Honor on December 16, 2020 that requires Plaintiffs to submit by today proof of service, so that this matter is not dismissed for lack of prosecution pursuant to Federal Rule of Civil Procedure 4(m).

As the Court is aware, F.R.C.P. 4(m) states in pertinent part that "If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against the defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."

Prior to filing the Complaint in this action, Plaintiffs engaged in significant efforts to try to address and resolve their concerns. Fellowships at Auschwitz for the Study of Professional Ethics ("FASPE") retained the law firm of Fisher & Phillips LLP to represent the organization, as well as individual members of its Board of Directors and Academic Committee.

I have engaged in several discussions with David E. Strand, Esq., from Fisher & Phillips LLP, regarding this matter, both before initiating this litigation and since filing the Complaint, including regarding threshold issues of representation and service. Mr. Strand has stated that his firm represents all eight (8) named Defendants – Fellowships at Auschwitz for the Study of Professional Ethics, C. David Goldman, Andrew Eder, Eric Muller, Debbie Bisno, Nancy Angoff, Frederick Marino, and Thorsten Wagner (collectively, “Defendants”) – and that each of the eight (8) named Defendants have agreed to waive service of the summons. Accordingly, I have provided Mr. Strand with eight (8) separate Waivers of Service of the Summons, along with the filed copy of the Complaint, and requested that he sign and return them on behalf of each of his clients, so that in turn, I can file them with the Court.

With some of the unique challenges to operations and communications that we have all faced in this past year, process has taken longer than expected, but I expect that we should have completed Waivers of Service of the Summons to file with the Court this month. Mr. Strand and I have been able to cooperate to date, and I trust we should be able to continue in that regard, so that our initial conference with Your Honor, as well as issues of discovery, any motion practice, and any continuing dialogue regarding resolving this matter, are productive and respectful of the Court’s time.

Respectfully, this office submits that good cause has been shown, such that “an appropriate period” of additional time is warranted in this case. Importantly, there is no prejudice to the Defendants, and this matter is well within the applicable statute of limitations.

We appreciate Your Honor’s continuing attention to and courtesies in this matter.

Respectfully submitted,

s / James P. Gianakis

James P. Gianakis

cc: David E. Strand, Esq. (via email)
Linnea Michaels, Mary-Kathryn Zoni, and Rev. Susan J. McCone (via email)

Application granted. Although the Court shares Defendants’ frustration with Plaintiffs’ significant delays to date, see Dkt. 6, the motion for an extension of time is granted. Plaintiffs shall either complete service (and file proof of such service) or file executed waivers of service no later than February 9, 2021. No further extensions will be granted absent good cause, and future disregard for the Federal Rules of Civil Procedure or orders of this Court may result in sanctions.

SO ORDERED.



Hon. Ronnie Abrams
1/19/2021